

Gilheoly



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Aaron Refrigeration Services

File: B-225034

Date: November 7, 1986

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### DIGEST

1. Protester's statement during telephone conversation with contracting officer that it would protest award to any other bidder did not constitute timely agency protest since oral protests are not provided for under the Federal Acquisition Regulation. Therefore, protest to General Accounting Office, filed more than 10 days after oral notification of the basis of protest, is dismissed as untimely.
2. Protest against apparent IFB improprieties is untimely where filed after bid opening.

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### DECISION

Aaron Refrigeration Services (Aaron) protests the rejection of its bid and award of a contract to Modern Electric, Inc. under invitation for bids (IFB) No. DAKF27-86-B-0138, issued by the Department of the Army (Army) for replacement of condensing units at Fort George G. Meade, Maryland.

We dismiss the protest as untimely.

According to Aaron, the Army notified it by telephone that its bid was rejected because its bid price of \$151,028 was much lower than the government's estimate of \$367,750. Aaron notes that although the government estimate was \$216,722 above its price, it was also \$137,458 above the awardee's price. Aaron contends that the Army's estimate was defective and requests that "the defective, ambiguous and equivocal plans and specifications be rewritten." Aaron states that it protested to the Army on September 30, 1986, and has not received a response. We received Aaron's protest on October 23, 1986.

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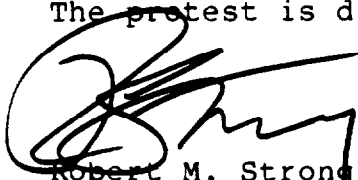
The Army has advised us that it notified Aaron by telephone on September 28 or 29 that its bid was rejected. Aaron then called the Army on September 30, stating it would protest award of the contract to any other bidder. According to the Army, Aaron never filed a written protest with it.

Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1986), require that protests be filed within 10 working days after the basis for protest is known or should have been known, whichever is earlier. An oral notification of the basis is sufficient to start the 10-day period running. Delta Coals, Inc., B-218477.2, Oct. 8, 1985, 85-2 C.P.D. ¶ 388. Since Aaron's protest was not received in our Office within 10 days after the oral notification, the protest is untimely and will not be considered.

Aaron's September 30 oral complaint to the contracting agency did not constitute a protest such that a subsequent protest to our Office would be timely. Oral protests are not provided for under the Federal Acquisition Regulation, 48 C.F.R. § 33.101 (1985). White Office Systems, Inc., B-224252, Oct. 9, 1986, 86-2 C.P.D. ¶ \_\_\_\_.

To the extent Aaron is protesting ambiguities in the specifications, this aspect of the protest is untimely since it was not raised before the bid opening. See 4 C.F.R. § 21.2(a)(1) (1986); Triple A Shipyards, B-220282.2, Feb. 7, 1986, 86-1 C.P.D. ¶ 140.

The protest is dismissed.



Robert M. Strong  
Deputy Associate General Counsel